

MINUTES OF FEBRUARY 16, 2015

The regular meeting of the Sussex County Board of Adjustment was held on February 16, 2015, at 7:00 p.m. in the County Council Chambers, County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Callaway presiding. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Jeff Hudson, and Mr. Brent Workman, with James Sharp – Assistant County Attorney, and staff members Lawrence Lank – Director of Planning and Zoning, and Mrs. Jennifer Norwood – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Revised Agenda as circulated. Motion carried 4 – 0.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Minutes and Finding of Facts for December 15, 2014 as circulated. Motion carried 4 – 0.

Mr. Sharp read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

PUBLIC HEARINGS

Case No. 11525 – Patricia A. Stahl – north of Route 54 (Lighthouse Road) and being northwest of Blue Teal Road approximately 1,365 feet northeast of Swann Drive and being Lot 35 Block C within Swann Keys Subdivision (911 Address: 37055 Blue Teal Drive, Selbyville, DE) (Tax Map I.D. 5-33-12.16-436.00)

An application for variances from the side yard setback requirement.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Timothy Meadowcraft was sworn in to testify about the Application. Raymond Tomasetti, Esquire, presented the case to the Board on behalf of the Applicant and submitted exhibits for the Board to review.

Mr. Tomasetti stated that the Applicant is requesting a variance of 3.1 feet from the ten (10) feet side yard setback requirement for an existing dwelling, a variance of three (3) feet from the five (5) feet side yard setback requirement for an existing shed, a variance of 6.8 feet from the ten (10) feet side yard setback requirement for an existing dwelling, and a variance of 0.7 feet from the five (5) feet side yard setback requirement for an existing open deck; that the previous owners placed the manufactured home on the Property in 1977; that the porch, shed and deck were added later; that the Applicant purchased the Property in 1990; that all improvements on the Property were located thereon at the time the Applicant purchased the Property; that there was not a survey completed in 1990; that the Applicant is now selling the Property and a survey completed for settlement showed the encroachments; that the Applicant was not previously aware of the

encroachments; that the Property is unique because it is only forty (40) feet wide and is smaller than other lots in the Swann Keys development; that the unique size of the Property creates a difficulty; that the community was previously developed as a mobile home community; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code; that the difficulty was not created by the Applicant; that the original owner placed the encroaching structures on the Property; that the variances will not alter the essential character of the neighborhood; that the use is not detrimental to the public welfare; that the variances are the minimum variances necessary to afford relief; that the variances represent the least modifications of the regulations at issue; and that the new owners do not plan to make any changes to the Property.

Mr. Meadowcraft confirmed the statements made by Mr. Tomasetti as being true and correct.

Mr. Lank stated that there have been numerous variances granted on properties along this street.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11525 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The narrow lot makes the Property unique;
2. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
3. The variances are necessary to enable reasonable use of the Property;
4. The exceptional practical difficulty was not created by the Applicant;
5. The variances will not alter the essential character of the neighborhood;
6. The variances will not be detrimental to the public welfare; and
7. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 4 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 11526 – Richard M. McQuail and Elizabeth J. McQuail – west of Route One (Coastal Highway) and east of Bayside Drive, approximately 267 feet north of Ocean Side Drive and being Lot 41 within Seatowne Subdivision (911 Address: 36805 Bayside Drive, Fenwick Island, DE) (Tax Map I.D. 1-34-22.00-80.00)

An application for variances from the front yard and side yard setback requirements.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Barry Godfrey was sworn in to testify about the Application. Chad Meredith, Esquire, presented the case to the Board on behalf of the Applicants and submitted a survey dated May 6, 2002 for the Board to review.

Mr. Meredith stated that the Applicants are requesting a variance of 1.3 feet from the thirty (30) feet front yard setback requirement for an existing dwelling and a variance of 0.2 feet from the ten (10) feet side yard setback requirement for an existing second story deck; that the Applicants purchased the Property in 2013; that the Seatowne subdivision was recorded in 1980; that the plots which created the Seatowne subdivision show the Property as being sixty (60) feet wide; that the building permit for the dwelling was obtained in July 1981; that the records suggest that the dwelling was built in 1981 and completed no later than 1982; that the previous owners obtained numerous building permits throughout the years for sheds and minor improvements to the dwelling; that Seatowne appears to be a fully developed subdivision; that the 2002 survey shows the lot to be sixty (60) feet wide; that the 2014 survey shows the lot to be 59.75 feet wide; that the lot was originally recorded as a sixty (60) feet wide lot; that if the Property was sixty (60) feet wide, there would be no need for a side yard variance; that the difference in the surveys created the need for a variance; that both surveys show the need for a front yard variance; that the deck is a second story deck; that the Property has unique circumstances and condition because the lot is smaller than originally believed; that there would be an exceptional practical difficulty to bring the Property into compliance; that there would be little to no benefit to neighboring properties if the dwelling and deck were moved into compliance with the Sussex County Zoning Code; that the variances are necessary to enable reasonable use of the Property; that the difficulty was not created by the Applicants; that the variances will not alter the essential character of the neighborhood; that other homes in the neighborhood appear to be similarly situated; that the use does not impair the uses of adjacent and neighboring properties; that the use is not detrimental to the public welfare; that the variances represent the least modifications of the regulations at issue; and that the variances are the minimum variances necessary to afford relief.

Mr. Godfrey testified that he has worked as a Real Estate Broker in Sussex County for twelve (12) years; that he is familiar with the Property and the surrounding areas; and that the variances will not affect adversely the values of the neighboring properties. Mr. Godfrey confirmed the statements made by Mr. Meredith as being true and correct.

Mr. Lank stated for the record that there have been other variances granted in the area and the development has a two (2) feet buffer between the lots and Route One.

Fred Wetzelberger was sworn in and testified in opposition to the Application and testified that he is the President of Seatowne Homeowners Association and chairman for the Architectural Review Board; that the Homeowners Association has issue with the sight lines being obstructed in the side yards; that sight lines in the side yards are important due to the nearby water views; that he believes the side yard setback violation could be easily rectified; that the dwelling is the original house in the development and that the previous owner liked to tinker with the dwelling; that the encroachment exists; that the Applicants were aware of the encroachments at the time of purchase; that the Association was not aware of the encroachment until recently; that the second floor of the dwelling has a 12 to 14 inch overhang, which creates the encroachment; that he believes the front yard encroachment is farther than is shown on the survey; that the Applicants have asked the Association for permission to add an additional floor to the dwelling; that the Association does not want the Applicants to build vertically on the Property and further encroach the front yard setback; that there is no undue hardship to the Applicants but that bringing the front yard into compliance would be expensive; that there are no other dwellings in the development with side yard and front yard variances; that the variances will alter the character of the neighborhood; that the previous owner made numerous changes to the Property over the years; that most of the changes were to the side yard and rear yard of the Property; that there were no complaints about the Property prior to the Application; that the approval of the variances will set a precedent; that the deck is very small and he believes it could be brought into compliance; that the front yard variance request is less objectionable to the Association because the Association is uncomfortable requiring the Applicants to remove such a large portion of the house but the Association would support a decision by the Board to require the removal of the encroachments; that he is unaware of any previous complaint to the Association regarding the encroachments; that the dwelling is a two-story dwelling and that neighboring dwellings are three-story dwellings; and that it would cost the Applicants quite a bit of money to bring the front yard into compliance.

In rebuttal, Mr. Meredith, stated that the proposal is for variances for the improvements “as is”; that the Applicants would need to come back before the Board if they ever choose to build an additional story to the existing dwelling; and that he submitted pictures for the Board to review.

The Board found that no persons appeared in support of the Application.

The Board found that two (2) persons appeared in opposition to the Application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be taken under advisement. Motion carried 4 – 0.

At the conclusion of the public hearing, the Chairman referred back to this case. Mr. Mills stated that the discrepancy of 0.2 feet between the two (2) surveys happens frequently; that the difficulty was not created by the Applicants; and that there was no proof of awareness prior to the sale of the Property.

Mr. Hudson stated that he agrees with Mr. Mills statements and that the requested variances are the minimum variances necessary to afford relief.

Mr. Workman stated that he agrees with Mr. Mills statements and that the Applicants met the standards for granting a variance.

Mr. Callaway stated that he is also in agreement with the statements made by Mr. Mills.

Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11526 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The discrepancy between the two (2) surveys create a unique situation;
2. The variances are necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variances will not alter the essential character of the neighborhood;
5. The variances will not substantially or permanently impair the uses of the neighboring and adjacent properties;
6. The variances are the minimum variances necessary to afford relief; and
7. The variances represent the least modifications of the regulations at issue.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 4 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 11527 – Deborah L. Hickman – south of Route 26 (Vines Creek Road) approximately 2,800 feet east of Road 382 (Armory Road) (911 Address: 30050 Vines Creek Road, Dagsboro, DE) (Tax Map I.D. 2-33-11.00-175.00)

An application for a variance from the lot width requirement for a parcel.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Duane Marvel and Deborah Hickman were sworn in and testified requesting a variance of 30.1 feet from the 150 feet lot width requirement for a parcel for proposed Lot 2, and a variance of 30.50 feet from the 150 feet lot width requirement for a parcel for proposed Lot 1.

Ms. Marvel testified that they want to subdivide the three (3) acre parcel into two (2) parcels; and that there will be a shared driveway.

The Applicant requested additional time to prepare her presentation.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously to allow the Applicant more time to prepare her case and move the case to the end of the Agenda.

At the conclusion of the public hearings, the Chairman referred back to this case.

Duane Marvel testified that the Property has been in the family for years and that the Property is proposed to be split into two lots; that the surveyor came up with the proposed subdivision which allows the family to divide the Property equally; that the Property is narrow in the front and widens at the rear which makes the Property unique; that there will be a shared driveway; that the subdivision will allow her to build a dwelling and be near her mother who is in poor health; that the variances will not alter the character of the neighborhood; that the Property is currently vacant and the Applicant intends to place a home and a garage on the lot which will improve the Property; that the variances will not impair the uses of neighboring and adjacent properties; that no variance would be needed if the front property line was as wide as the rear property line; that the Property has an odd shape; that the difficulty was not created by the Applicant; that the Property cannot be subdivided without a variance; and that the variances requested are the minimum variances to afford relief.

The Board found that one (1) party appeared in support of the Application.

The Board found that no parties in opposition to the Application.

Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11527 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique in shape;
2. There is no way to subdivide the Property without a variance;
3. The variances are necessary to enable reasonable use of the Property;
4. The exceptional practical difficulty was not created by the Applicant;
5. The variances will not alter the essential character of the neighborhood;
6. The variances will not be detrimental to the public welfare; and
7. The variances are the minimum variances necessary to afford relief.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 4 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 11528 – Debra Folsom – south of Route 24 (John J. Williams Highway) and being northeast of Dodd Avenue approximately 169 feet southeast of Paynter Lane and being Lot 60 within Truitt’s Midway Development Company Subdivision (911 Address: 504 Dodd Avenue, Rehoboth Beach, DE) (Tax Map I.D. 3-34-12.00-156.00)

An application for variances from the side yard and front yard setback requirements.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Debra Folsom was sworn in and testified requesting a variance of 5.5 feet from the ten (10) feet side yard setback requirement for an existing dwelling and a variance of 2.25 feet from the thirty (30) feet front yard setback requirement for proposed porch; that she purchased the Property approximately two (2) years ago; that the Property has been in her family since 1970; that the existing six hundred (600) square-foot dwelling was built in 1970; that the side yard property line is adjacent to an existing buffer to the Rehoboth Mall property; that the service road for the mall also runs along that property line; that the proposed addition will be 530-square-feet in size; that the variances will not alter the character of the neighborhood; that the Property is unique in size as it is narrow and deep; that the Property also has a sloping rear yard; that the rear yard holds water and is not suitable to build; that the Property cannot be developed in strict conformity with the Sussex County Zoning Code; that Dodd Avenue was a dirt road until recently; that the Property is on a dead end road; that her brother owns a nearby property; that the proposed porch will not extend further into the setback than the existing dwelling; that the variances requested are minimum variances to afford relief; and that she was unaware of the need for a variance until recently. Ms. Folsom submitted pictures to the Board to review.

Steve Folsom was sworn in and testified in support of the Application and testified that he is the Applicant’s brother; that he owns the property across the street; that their parents currently live there; that he believes the proposed addition will enhance his sister’s property; that he supports the Application; and that the improvements will enhance the Property’s value.

The Board found that one (1) party appeared in support of the Application.

The Board found that no parties appeared in opposition to the Application.

Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11528 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The existing dwelling has been on the Property for many years;
2. The Property is unique due to the low area that collects water, which limits the buildable area;

3. The Property cannot be developed in strict conformity with the Sussex County Zoning Code;
4. The variances are necessary to enable reasonable use of the Property;
5. The exceptional practical difficulty was not created by the Applicant;
6. The variances will not alter the essential character of the neighborhood;
7. The variances will not be detrimental to the public welfare; and
8. The variances are the minimum variances necessary to afford relief.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 4 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 11529 – Lowell Dutcher & Deborah Dutcher – north of Route 54 (Lighthouse Road) and being southeast of Laws Point Road approximately 1,300 feet northeast of Swann Drive and being Lot 32 Block F within Swann Keys Subdivision (911 Address: 36984 Laws Point Road, Selbyville, DE) (Tax Map I.D. 5-33-12.16-299.00)

An application for variances from the side yard setback requirement.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of the Application.

Mr. Lank read one (1) letter of opposition into the record.

Mr. Mills abstained from the public hearing due to a conflict of interest and left the Council Chambers.

Lowell Dutcher was sworn in and testified requesting a variance of five (5) feet from the ten (10) feet side yard setback requirement for both sides of the property for a proposed dwelling and a variance of 7.6 feet from the ten (10) feet side yard setback requirement for a proposed HVAC unit on the north side of the Property; that the existing 1984 manufactured home, sunroom, decks and shed existed on the Property when he purchased the Property in June 2014; that the existing structures are located in the setback areas; that he plans to remove the existing structures and build a modular dwelling on the Property; that the lot is only forty (40) feet wide; that a lot across the street is fifty (50) feet wide; that others in the community are improving their units as well; that the existing dwelling needs to be replaced; that the building footprint of the proposed dwelling encroach less into the setback areas than the existing structures; that the proposed dwelling will be thirty (30) feet wide; that the HVAC system will not encroach any farther than the existing shed; that the home will be a Cape Code style house; that larger two (2) story homes are being placed in the neighborhood; that he could build the proposed home without a variance if

the lot was fifty (50) feet wide; that other lots in the community are fifty (50) feet wide; that he works for the company that builds the modular dwelling he plans to place on the Property; that a smaller dwelling is not available; that the forty (40) feet wide lot is unique in size; and that the neighbor's propane tank is five (5) feet from the property line.

Mr. Lank advised the Board that there have been other variances granted in the development nearby and that separation variances are no longer required in the neighborhood.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Hudson stated that he would move that the Board recommend approval of Variance Application No. 11529 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The forty (40) feet wide lot is unique in size;
2. The proposed dwelling will not encroach any farther than the existing dwelling;
3. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
4. The exceptional practical difficulty was not created by the Applicants;
5. The variances will not alter the essential character of the neighborhood;
6. Other homes in the neighborhood are being replaced by similar homes to what the Applicants propose building; and
7. The variances are the minimum variances necessary to afford relief.

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 3 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Hudson – yea, and Mr. Callaway – yea.

Case No. 11530 – Indian River Water Sports Club – southeast of Road 312 (River Road) and being across from and halfway between Nanticoke Avenue and Cherokee Avenue in Riverdale (911 Address: 32374 River Road, Millsboro, DE) (Tax Map I.D. 2-34-34.12-43.00)

An application for variances from the side yard setback requirement.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Bob Craighton was sworn in and testified requesting a variance of 1.9 feet from the five (5) feet from the side yard setback requirement for an existing shed, a variance of 0.4 feet from the five (5) feet side yard setback requirement for an existing shed, and a variance of 2.5 feet from the five (5) feet side yard setback requirement for an existing deck; that he represents the Indian River

Water Sports Club; that the deck was built approximately six to eight years ago; that a Certificate of Compliance was issued for the deck; that a recent survey showed the encroachments; and that he was unaware the sheds encroached.

Mr. Lank advised the Board that a Certificate of Compliance was issued so the filing fee for the variances was waived.

Mr. Craighton testified that he believes that the shed which is 4.6 feet from the side property line can be moved into compliance but the shed closest to the building likely cannot be moved into compliance; and that he needs more time to prepare his case.

James Santangelo was sworn in and testified in opposition to the Application and testified that owns the adjacent property; that his main concern is with the existing deck and its proximity to his lot; that the deck was built in 2007; that he has lived on his property since 1999; that the members and guests using the deck have jumped from the deck onto his property; that the Applicant sometimes uses the Property for birthday parties and weddings; that the existing bulkhead on his property has been accessed from the deck; that children have walked on the wall and played in his backyard; that he has caught children swinging on his swing set; that the permit for the deck clearly states the setback requirements; that stakes are located on the Property so determining the property lines and setback areas should not be a problem; that he believes if the deck complied with the setback requirement it would lessen the trespassing issues he experiences; that he feels the Property can be developed in strict conformity with the Sussex County Zoning Code; that he is selling his property and potential buyers have mentioned the close proximity of the Applicant's deck to his property; that the difficulty has been created by the Applicant; that the Applicant uses the Property for a clubhouse and there is no permanent resident; and that his only issue is with the existing deck and not the existing sheds. Mr. Santangelo submitted pictures for the Board to review.

In rebuttal, Mr. Craighton, testified that the clubhouse is used for social gatherings, and that he would be willing to bring the deck into compliance.

The Board found that no parties appeared in support of the Application.

The Board found that two (2) parties appeared in opposition to the Application.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously to **leave the case open until March 2, 2015, to allow the Applicant more time to prepare its case.** Motion carried 4 – 0.

Case No. 11531 – RMG Investments, LLC – north of South Carolina Avenue east of Bunting Avenue and being Unit 2 within the South Carolina Place Condominium (911 Address: None Available) (Tax Map I.D. 1-34-23.16-300.00-Unit 2)

An application for variances from the rear yard and corner front yard setback requirements.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

David Elecko was sworn in and testified requesting a variance of 4.5 feet from the ten (10) feet rear yard setback requirement and a variance of 9.1 feet from the fifteen (15) feet corner front yard setback requirement for a proposed screen porch and second floor deck. Mr. Elecko submitted exhibits to the Board to review. Mr. Elecko testified that the unit is part of a duplex; that the neighboring Unit 1 was granted variances in 2014 for a screen porch and open deck; that the owner of Unit 2 wants to make the same improvements; that the proposed screen porch and deck will create a uniformed look to the duplex; that the proposed structure will be cantilevered to prevent damage; that the previous deck was damaged and rotted; that the proposed structure will not obstruct any views; that Unit 1 and Unit 2 are in the same building; that the additions to Unit 1 block airflow and views from Unit 2; that the use will not affect the possibility of development of neighboring or adjacent properties; that the difficulty was not created by the Applicant; that the variances requested represent the minimum variances to afford relief; that Unit 2 is a three story, elevated dwelling; that the first elevated level would be extended four (4) feet; that the deck on the second floor will be the roof of the first floor porch; that there will be a fire rated partition wall between Units 1 & 2; that there is no roof over the existing deck; that the addition to Unit 1 has taken away views from Unit 2; and that the variances will not alter the essential character of the neighborhood.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Hudson stated that he would move that the Board recommend approval of Variance Application No. 11531 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The duplex makes this Property unique;
2. The Property cannot be developed in strict conformity with the Sussex County Zoning Code;
3. The exceptional practical difficulty was not created by the Applicant;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances requested are the minimum variances necessary to afford relief.

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 4 – 0.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – Mr. Workman, and Mr. Callaway – yea.

Case No. 11532 – Lauren Harding – southeast of Route 24 (John J. Williams Highway) and being southwest of White Pine Drive approximately 750 feet southeast of Route 24 (John J. Williams Highway) and being Lot 8 of the Pines at Long Neck Community (911 Address: 21 White Pine Drive, Millsboro, DE) (Tax Map I.D. 2-34-23.00-717.00)

An application for variances from the side yard and front yard setback requirements and separation requirement between units in a residential planning community.

Mr. Lank presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Lauren Harding was sworn in and testified requesting a variance of 0.5 feet from the ten (10) feet side yard setback requirement for an existing dwelling, a variance of 1.9 feet from the thirty (30) feet front yard setback requirement for an existing porch, a variance of 0.2 feet from the twenty (20) feet separation requirement between units in a residential planning community, which was a condition of the RPC approval, and a variance of 0.4 feet from the ten (10) feet side yard setback requirement for an existing dwelling; that she purchased the Property in 2014; that an exceptional practical difficulty exists; that the Property cannot be developed in strict conformity with the Sussex County Zoning Code; that the variances are necessary to enable reasonable use of the Property because she needs access to her house; that she obtained the building permit to build the porch; that she thought the building permit was approval for the location of the porch; that the variances will not alter the essential character of the neighborhood; that the structures will enhance the Property's value; that the variances will not impair the uses of neighboring and adjacent properties; that the use is not detrimental to the public welfare; that the variances requested are the least modifications of the regulations at issue; that the dwelling and rear deck / sunroom existed on the Property at the time of purchase; that she did not construct the house, rear deck, and sunroom; and that she placed the porch on the Property in July 2014. Ms. Harding submitted pictures for the Board to review.

The Board found that no parties appeared in support of or in opposition to the Application.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the case be taken under advisement. Motion carried 4 – 0.

At the conclusion of the public hearings, the Chairman referred back to this case. Mr. Hudson stated that he would move that the Board recommend approval of Variance Application No. 11532 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is unique in size;
2. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;

3. The exceptional practical difficulty was not created by the Applicant;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances requested are the minimum variances necessary to afford relief.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 4 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Mills – yea, Mr. Hudson – yea, and Mr. Callaway – yea.

Meeting Adjourned 9:55 p.m.